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LUCKY BRAND DUNGAREES, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 JUVENAL ROBLES and ABEL FIGUEROA,  
13 individually and on behalf of a class of  
14 similarly situated individuals,

15 Plaintiffs,

16 v.

17 LUCKY BRAND DUNGAREES, INC., a  
Delaware corporation, KIRSHENBAUM  
18 BOND SENEAL & PARTNERS LLC f/k/a  
KIRSHENBAUM BOND & PARTNERS  
19 LLC, a Delaware limited liability company,  
d/b/a Lime Public Relations + Promotion, and  
20 KIRSHENBAUM BOND & PARTNERS  
WEST LLC, a Delaware limited liability  
21 company,

22 Defendants.

Case No. 10-cv-04846 MMC

**STIPULATION AND ~~PROPOSED~~  
ORDER CONTINUING THE CASE  
MANAGEMENT CONFERENCE**

Date: January 20, 2012  
Time: 10:30 a.m.  
Courtroom: 7, 19th Floor

The Honorable Maxine M. Chesney

1 Plaintiffs Juvenal Robles and Abel Figueroa (collectively "Plaintiffs"), defendant Lucky  
2 Brand Dungarees, Inc. ("Lucky"), defendants Kirshenbaum Bond Senecal & Partners LLC, f/k/a  
3 Kirshenbaum Bond & Partners LLC, d/b/a Lime Public Relations + Promotion and Kirshenbaum  
4 Bond & Partners West LLC (collectively "Lime"), and third-party defendant Merkle, Inc.  
5 ("Merkle"), by and through their counsel, stipulate:

6 1. Plaintiff Robles filed his Class Action Complaint on October 26, 2010, alleging  
7 defendant Lucky violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, by sending an  
8 allegedly unsolicited text message to plaintiff's cellular telephone in the summer of 2008. (Dkt. No.  
9 1.)

10 2. Lucky answered the complaint, alleging, among other things, various defenses that  
11 included issues involving consent, authorization, and other elements of plaintiff's statutory claim.  
12 (Dkt. No. 15.)

13 3. On January 21, 2011, Judge Fogel held an initial case scheduling conference and  
14 ordered the parties to participate in a settlement conference before Magistrate Judge Lloyd and to  
15 return and report on the result of that conference. (Dkt. No. 18.)

16 4. Plaintiff Robles and defendant Lucky participated in a settlement conference before  
17 Judge Lloyd on April 29, 2011. Lime, Merkle and Take 5 Solutions, LLC ("Take 5"), who were all  
18 third parties at the time, also participated in the settlement conference. At the settlement  
19 conference, plaintiff Robles, defendant Lucky, the third parties, and insurers candidly discussed  
20 their various positions about the litigation and settlement. During these discussions, it was  
21 determined that limited focused discovery or information was required to continue productive  
22 discussions toward resolution. Upon the recommendation of Judge Lloyd, plaintiff Robles,  
23 defendant Lucky, the third parties, and insurers agreed to return for a further settlement conference.  
24 (*See* Dkt. 32.)

25 5. Prior to the further settlement conference, plaintiff Robles filed an Amended  
26 Complaint. (Dkt. 39.) The Amended Complaint alleges a single claim for violation of the TCPA,  
27 under the same general allegations stated in the original complaint, on behalf of both Juvenal  
28 Robles and Abel Figueroa. The Amended Complaint also adds Lime as a named defendant.

6. Lime and Lucky answered the Amended Complaint. (Dkt. 45 & 48.) Lime also filed a Third-Party Complaint against Merkle. (Dkt. 44). Merkle answered the third-party complaint and filed a fourth-party complaint against Take 5. (Dkt. 64 & 66.) Take 5 has not yet appeared in the action.

7. The parties participated in a further settlement conference before Judge Lloyd on September 21, 2011. The parties were able to advance their settlement discussion during the second settlement conference, but did not reach a final agreement. The parties agreed to continue those discussions in the context of a full days mediation and, in the interim, to limit activity in the case to only discovery necessary to complete mediation. The parties thereafter scheduled a full day mediation before Nicholas H. Politan in West Palm Beach, Florida and set the mediation for December 8, 2011.

8. On September 27, 2011, this matter was reassigned to this Court. (Dkt. 60.) By order dated September 30, 2011, the Court set a Case Management Conference for January 20, 2012.

9. Due to medical concerns involving a member of his family, Mediator Politan was forced to cancel the December 8th mediation. The parties have reset the mediation for January 26, 2012.

10. Based on the prior settlement discussions and the impending mediation, the parties jointly request the Court continue the January 20, 2012 Case Management Conference to February 10, 2012 or a date thereafter convenient to the Court.

**IT IS SO STIPULATED.**

Dated: January 9, 2012

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By /s/ Brian R. Blackman  
CRAIG CARDON  
BRIAN R. BLACKMAN  
Attorneys for  
Defendant LUCKY BRAND DUNGAREES, INC.

1 Dated: January 9, 2012

2 EDELSON MCGUIRE LLC

3  
4 By /s/ Ryan D. Andrews  
5 RYAN D. ANDREWS  
6 SEAN REIS  
7 Attorneys for  
8 Plaintiff JUVENAL ROBLES

9 Dated: January 9, 2012

10 WILSON ELSEER MOSKOWITZ EDELMAN & DICKER LLP

11 By /s/ Sara J. Savage  
12 DAVID SHEIFFER  
13 SARA J. SAVAGE  
14 Attorneys for  
15 Defendants KIRSHENBAUM BOND SENEAL &  
16 PARTNERS LLC and KIRSHENBAUM BOND &  
17 PARTNERS WEST LLC

18 Dated: January 9, 2012

19 LATHAM & WATKINS LLP

20 By /s/ Peter Winik  
21 PETER WINIK  
22 MATTHEW RAWLINSON  
23 SARAH GRAGERT  
24 Attorneys for  
25 Third-Party Defendant MERKLE, INC.

**CERTIFICATION**

I, Brian Blackman, am the ECF User whose identification and password are being used to file this Stipulation And [Proposed] Order Continuing The Case Management Conference. In compliance with General Order 45.X.B., I hereby attest that Ryan D. Andrews, Sara J. Savage and Peter Winik have concurred in this filing.

Dated: January 9, 2012

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP


By /s/ Brian R. Blackman  
BRIAN R. BLACKMAN  
Attorneys for  
Defendant LUCKY BRAND DUNGAREES, INC.

**ORDER**

Having considered the parties' stipulation and good cause appearing, the Court continues the January 20, 2012 Case Scheduling Conference to February 10, 2012 at 10:30 AM in Courtroom 7, 19th Floor. A Joint Case Management Statement shall be filed no later than February 3, 2012.

**IT IS SO ORDERED.**

Dated: January 10, 2012

  
The Honorable Maxine M. Chesney  
United States District Judge